

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION

EX-PARTE APPLICATION FOR ORDER AUTHORIZING
THE CHAPTER 13 TRUSTEE TO MAKE ADEQUATE
PROTECTION PAYMENTS

1 **WHEREFORE**, the Chapter 13 Trustee requests the court enter an order as follows:

- 2 1. Adequate protection payments required by 11 U.S.C. 1326(a)(1)(C) and the proposed plan shall be paid by the
3 trustee not the debtor.
- 4 2. Adequate protection payments required by 11 U.S.C. 1326(a)(1)(B) and the proposed plan shall be paid by the debtor
5 directly to the lessor, reducing the debtor(s) plan payment by that amount so paid and providing the trustee with
6 evidence of such payment including the amount and date of payment.
- 7 3. Adequate protection payments pursuant to 11 U.S.C. 1326 (a)(1)(C) and the proposed plan shall be paid when the
8 claim holder has filed a proof of claim. To the extent funds are available the trustee shall pay the claim holder
9 adequate protection payments for those periods from the filing of the petition through the date of confirmation.
- 10 4. The trustee shall begin making the adequate protection payments in connection with the trustee's customary month
11 end disbursement cycle beginning the month after the petition is filed.
- 12 5. The trustee may access an administrative fee for making the payments required by this order and shall collect such
13 fee at the time of making the payment from the funds on hand in the case. The allowed fee shall be equal to the
14 percentage fee established by the Attorney general pursuant to 28 U.S.C. 586(e)(1)(B) in effect at the time of the
15 distribution.
- 16 6. Upon dismissal or conversion prior to confirmation of the plan, the trustee shall first make the payments required by
17 paragraph 1 above, then any unpaid claims allowed pursuant to section 503(b), before returning the balance of the
18 funds held by the trustee to the debtor.
- 19 7. The trustee shall serve the creditors receiving adequate protection payments with the order on Chapter 13 Adequate
20 Protection Payments.
- 21 8. On appropriate motion any party may, either ex-parte or on noticed motion, request this order be modified by the
22 court.

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Dated: September 16, 2011

Respectfully submitted,

1
2 David Burchard

3 David Burchard

4 Chapter 13 Trustee

5
6 **CHAPTER 13 TRUSTEE**

7 **P.O. BOX 8059**

8 **FOSTER CITY, CA 94404**

9
10 **PROOF OF SERVICE BY MAIL**

11
12 STATE OF CALIFORNIA, COUNTY OF **SAN MATEO**

13 I am employed in the County of **San Mateo**, State of California. I am over the age of 18 and not a party to the within action.

14 My business address is P.O. Box 8059, Foster City, CA 94404.

15
16 On September 16, 2011, I served the foregoing documents described as: **Ex-parte Application FOR ORDER AUTHORIZING
THE CHAPTER 13 TRUSTEE TO MAKE ADEQUATE PROTECTION PAYMENTS**

17
18 I served the above documents on the interested parties by following our ordinary business practice for service, which is either
19 deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic
20 transmission from the Court, if applicable.

21 Mercedes-Benz Financial
22 P.O.Box 9001680
Louisville, KY 40290

23 I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

24 Executed on September 16, 2011, at Foster City, California.

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27 NICHOLE SAN JOSE

28 NICHOLE SAN JOSE